

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Willie Joe Sturkey, ) Case No. 8:10-1479-RMG-BHH  
Plaintiff, )  
 )  
v. ) **ORDER**  
 )  
Ms. Hudson, et. al., )  
Defendants. )  
 )

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This matter is before the court in Plaintiffs's *pro se* civil action. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e), DSC, this matter was referred to United States Magistrate Judge Robert S. Carr for pre-trial proceedings and a Report and Recommendation. On September 16, 2010, the Magistrate Judge issued a Report recommending that Plaintiff's motion for default judgment be denied. (Dkt. No. 53). The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if they failed to do so. Plaintiff filed his Objections to the Report October 4, 2010. (Dkt. No. 56).

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter *de novo*, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiffs' Objections, the court agrees with the conclusions of the Magistrate Judge. Defendants' timely filed their motion to dismiss the Complaint in this matter. (Dkt. No. 41). Therefore, they are not in default.

### **CONCLUSION**

Based on the above, Plaintiff's motion for default judgment is denied.

**AND IT IS SO ORDERED.**



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Richard Mark Gergel  
United States District Court Judge

November 2, 2010  
Charleston, South Carolina